

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Rollins Associates, L.P.	)	
	Map 106-03-0, Parcel 19.00	)	Davidson County
	Map 106-07-0, Parcel 55.00	)	
	Commercial Property	)	
	Tax Year 2006	)	

INITIAL DECISION AND ORDER

Statement of the Case

The Davidson County Assessor of Property ("Assessor") has valued the subject Properties for tax purposes as follows:

**Parcel 19.00**

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,134,900	\$3,526,900	\$4,697,800	\$1,879,120

**Parcel 55.00**

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$239,200	\$585,800	\$825,000	\$330,000

On May 25, 2006, the State Board of Equalization ("State Board") received appeals by the property owner. This property was not appealed to the Davidson County Board of Equalization ("county board") during its regular 2006 session.

The undersigned administrative judge conducted a jurisdictional hearing of this matter on May 17, 2007, in Nashville at the Division of Property Assessment.<sup>1</sup> In attendance at the hearing were Richard Hays, Agent for the appellants, Bart Rollins, Don Rollins and Charles Hankal Collier. Present for the Davidson County Property Assessor's Office was Representative Dean Lewis.

Findings of Fact and Conclusions of Law

The appeal for parcel 19.00 concerns a commercial tract of land (2.86 acres) containing 202,775 gross finished square feet of a multi-level warehouse/business center space located at 1413-1419 Elm Hill Pike in Nashville. This portion of the subject property was built in 1958 and features concrete construction. The appeal for parcel 55.00 concerns a commercial tract of land (1.84 acres) containing 39,240 gross finished square feet of a multi-level structure added in 1974. It was all built for the owners exclusive use, but times and business change so that now the subject has multiple uses.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to

<sup>1</sup> The properties are commonly known as 1413-1419 Elm Hill Pike a multi-level warehouse/office park in Davidson County.



appeal an assessment to the County Board of Equalization prior to appealing the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b)(2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show **reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1<sup>st</sup> of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control**. (*Emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from timely appealing to the State Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief. In this case the taxpayer relies heavily on a decision by Administrative Judge Mark Minsky in *In Re: Garden Foxwood, Ward 074, Block 090, Parcel 00079, Shelby County, Tax Year 2005* in which he decided that reasonable cause did exist to justify the taxpayers failure to timely file before the County Board of Equalization (copy of the decision is incorporated by reference to this decision). It appears that the support manager in that case was the same individual for this property<sup>2</sup>, therefore the administrative judge finds that reasonable cause does exist and the State Board has jurisdiction to hear the appeal. At the request of the taxpayers and the consent of the County Parcels 18.00, 020.00 and 027.00<sup>3</sup> for Map 106-03-0 were combined to make Parcel 019.00. Properties formerly identified as Map 016-30-0 with Parcels 18.00, 20.00 and 27.00 were deleted from the 2006 tax rolls.

The basis of valuation as stated in Tennessee Code Annotated § 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

<sup>2</sup> The support manager had numerous family obligations that prevented him from correctly exercising his responsibilities to his employer.

<sup>3</sup> There is no pending appeal form for this parcel for 2005 or 2006



and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values. . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal institute, The Appraisal of Real Estate at 50 and 62. 12th ed. 2001. However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. Id. at 597-603.

The value to be determined in the present case is **market value**. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. Id. at 2 1-22.

The administrative judge finds that the fair market value of subject property as of January 1, 2006 is the relevant issue in this case. In the examination of the proforma income approach data submitted by the Taxpayers' agent and the County we remain mindful that this is income producing property so that the income approach as to the determination of value would be the most probable and viable method at arriving at an accurate *value* <sup>4</sup> for ad valorem purposes.

In this type of an appeal the petitioner must show by a preponderance of the evidence that an allegation is true or that the issue should be resolved in favor of that party. Uniform Rules of Procedure for Hearing Contested Cases. Rule 1360-4-1-.02 (7). In this case the Taxpayer has failed to sustain that burden.

#### ORDER

It is therefore ORDERED that the following values be adopted for tax year 2006:

##### Parcel 19.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,134,900	\$2,789,800	\$3,924,700	\$1,569,880

##### Parcel 55.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$239,200	\$585,800	\$825,000	\$330,000

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<sup>4</sup> Value is the present worth of all the anticipated future benefits to be derived from a property. The benefits, in the form of an income stream or amenities, are those benefits anticipated by the market. Id. @ pp19-35



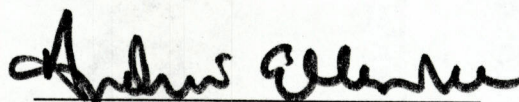
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 28<sup>th</sup> day of August, 2007.



ANDREI ELLEN LEE  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Richard Hays, Senior Tax Consultant  
Jo Ann North, Assessor of Property